



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,893	02/07/2000	Steven A. Gronemeyer	ST97001CII(209-US-CII)	9438
34408	7590	11/26/2008		
THE ECLIPSE GROUP LLP 10605 BALBOA BLVD., SUITE 300 GRANADA HILLS, CA 91344			EXAMINER ODOM, CURTIS B	
			ART UNIT	PAPER NUMBER
			2611	
			MAIL DATE	DELIVERY MODE
			11/26/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/498,893	<b>Applicant(s)</b> GRONEMEYER, STEVEN A.	
	<b>Examiner</b> CURTIS B. ODOM	<b>Art Unit</b> 2611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11/14/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-9, 11, 12, 14, 15, 17-23, 26-29, 39-42, and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5-8,15,17-23 and 26-29 is/are allowed.
- 6) ☐ Claim(s) 9,11,12,39-42 and 44 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 2, 5-9, 11, 12, 14, 15, 17-23, 26-29, 39-42, and 44 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

2. Claim 9 is objected to because of the following informalities: Limitations (c) and (d) of claim 9 should end in a comma. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 9, 11, 12, 39-42, and 44 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claims 9, 11, and 12, although the claims are method claims, a 101 process/method must be tied to another statutory class (such

Art Unit: 2611

as a particular apparatus) or transform underlying subject matter (such as an article or materials) to a different state or thing. It is the understanding of the Examiner that the claims merely apply mathematical operations to a signal and do not tie the claims to another statutory class since signals are non-statutory subject matter. Furthermore, the claims do not transform underlying subject matter to a different state or thing. See also MPEP 2106.IV.B.

Regarding claims 39-42 and 44, the claims recite “computer readable medium”.

However, after review of the instant specification, it is the understanding of the Examiner, that the computer readable medium recited in the claims can include paper (see page 21, lines 13-17). Paper is non-functional descriptive material which is non-statutory subject matter (See MPEP 2106.01 [R-6]).

#### ***Allowable Subject Matter***

5. Claims 1, 2, 5-8, 15, 17-23, and 26- 29 are allowable over prior art references.
6. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CURTIS B. ODOM whose telephone number is (571)272-3046. The examiner can normally be reached on Monday- Friday, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shuwang Liu can be reached on 571-272-3036. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Curtis B. Odom/  
Primary Examiner, Art Unit 2611  
November 20, 2008

Application/Control Number: 09/498,893

Page 5

Art Unit: 2611